

**MINUTES  
TOWN BOARD MEETING  
MARCH 21, 2016**

The meeting was called to order at 7:00 p.m.

Present: Supervisors: Kermes, Prudhon, Ruzek; Clerk: Short; Attorney: Lemmons;  
Public Works Director: Reed; Planner: Riedesel; Engineer: Studenski.

**APPROVAL OF AGENDA (Additions / Deletions):** Prudhon moved approval of the agenda with the following amendment: Add New Business Item 7J) Call Special Town Board Meeting for April 12, 2016, at 5:30 p.m. for Joint EDAB and Park Board Meeting. Ruzek seconded. Ayes all.

**APPROVAL OF PAYMENT OF BILLS:** Prudhon moved approval of the payment of bills. Ruzek seconded. Ayes all.

**APPROVAL OF MINUTES OF FEBRUARY 26, 2016 SPECIAL TOWN BOARD GOAL SETTING MEETING AND TOWN BOARD MEETING OF MARCH 7, 2016:** Ruzek moved approval of the Minutes of February 26, 2016 Special Town Board Goal Setting Meeting. Prudhon seconded. Ayes all.

Prudhon moved approval of the Town Board Meeting Minutes of March 7, 2016. Ruzek seconded. Ayes all.

**CONSENT AGENDA:** Ruzek moved approval of the Consent Agenda as follows: 5A) In Accordance with the Township's Special Event Policy, Grant Non-Exclusive Use of Bellaire Beach to South Shore Trinity Lutheran Church, 2480 South Shore Boulevard to Hold Outdoor Worship Services, Weather Permitting on June 5 & 19, July 3, 17 & 31, August 7 & 21, Beginning at 8:45 a.m. for Two Hours per Service and to Allow Use of Electricity from the Township's Lifeguard Building to Power the Sound System; 5B) Based on Town Engineer Review & Recommendation & Including His Recommended Conditions, Approve Xcel Energy Permit to Install a Gas & Electric Service for the Resident at 5320 Bald Eagle Boulevard East; 5C) Receive Construction Activity Report. Prudhon seconded. Ayes all.

**OLD BUSINESS:** There were no Old Business Agenda Items.

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**7:10 P.M. PUBLIC HEARING CONTINUATION – MOTION TO AMEND ORDINANCE NO. 35 – SECTION 7-4 – AIRSPACE ZONES AND 7-5 – LAND USE SAFETY REGULATIONS IN AIRPORT HAZARD AREAS:**

The Public Hearing was continued at 7:10 p.m. It was noted that this is a continuation of the Public Hearing held on March 7, 2016. Prudhon moved to waive the reading of Public Notice noting that there was proper publication in the newspaper. Ruzek seconded. Ayes all. Ruzek moved to continue the Public Hearing. Prudhon seconded. Ayes all.

The Planner reported that a Zoning Ordinance amendment has been initiated by the Town Board relating to airport zoning, at Benson Airport located in the northeast area of the Township off of Highway 61. He presented an overhead showing the location of the airport. He reported that when the airport zoning was adopted it consisted of safety zoning which included a Primary Zone over the runway, 250 feet wide, extending out from the end of the runway 250 feet; Safety Zone A which is two-thirds the length of the runway; Safety Zone B which is one-third the length of the runway; and Safety Zone C which is beyond that area and surrounding the airport by 10,000 feet. He identified the eastern side of the runway which shows a development proposal. A number of proposals for this property have been seen over the years but most recently a proposal was submitted for a 19 townhome subdivision and Planned Unit Development which included a request to modify the Zoning Ordinance to allow additional homes on smaller lots. This was reviewed in 2015 but was denied by the Town Board. He reported that when the airport zoning was adopted in the mid 1980's the Town adopted a model from MnDOT Aviation. That is the model that currently exists today. Since the Town adopted safety zones a new model has been put together. The model that was adopted by the Town was for a paved public airport. He noted that Benson Airport has a grass strip runway and since the Town adopted safety zones a model has been presented and suggested by MnDOT Aviation that is more fitting for an airport of this type. This model is called a Special Purpose Airport. It reduces the Primary Zone to 130 feet wide and stops at the end of the runway. Safety Zone A begins at the end of the runway instead of 200 feet beyond the end of the runway. It shifts everything back by 200 feet. This model is consistent with private airports with grass strip runways. He presented an overhead showing what the safety zones would look like under a Special Purpose Airport.

The Planner reported that this has been under consideration and the Town has been sued over the decision not to amend the safety zones that was requested as part of a development proposal last year. As a result of that the Town is reconsidering the zoning ordinance amendment at tonight's public hearing. He reported that the Planning Commission reviewed three options at their February meeting. One option was to eliminate the safety zones entirely since they are not required for this type of airport. They also reviewed an amendment adopting the Special Purpose Airport safety zoning based on a grass strip model runway. The third option was to create a new zone for Safety Zone B keeping the Primary Zone intact; Safety Zone A remains two-thirds the length of the runway, but Safety Zone B would be customized by reducing it from 629 feet in length to 425 feet. The Planning Commission made a recommendation to go

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with the following option: Safety Zone A: All land in that portion of the approach zones of a runway, as defined in Section 7-4.1(d) of Airspace Obstruction Regulations hereof, which extends outward from the end of primary surface, a distance equal to two-thirds of the planned length of the runway. Safety Zone B: All land in that portion of the approach zones of a runway as defined in Section 7-4.1(d) of Airspace Regulations hereof, which extends outward from Safety Zone A to a distance equal to 425 feet from the end of Safety Zone A. The Planner showed the proposed development reviewed by the Town Board last year. No development is proposed with tonight's public hearing. Only the Zoning Ordinance amendment is being addressed. He stated that currently the Ordinance reads: "All land in that portion of the approach zone of a runway, as defined in Section 7-4.1(d) of Airspace Obstruction Regulations hereof, which extends outward from Safety Zone A to a distance equal of one-third of the planned length of the runway". The Planning Commission reviewed and recommended a change to the Zoning Ordinance that would modify the last section of the current ordinance by changing to "a distance equal to 425 feet from the end of Safety Zone A. That is not consistent with the model for Special Purpose Airport but is similar. This is what was most recently reviewed by the Planning Commission and is what is being recommended for review and approval by the Town Board.

Gary McDaniel reported that he lives in Centerville but has a hangar and airplane at Benson Airport since 2011. He asked if MnDOT Aviation has looked at the amendment recommended by the Planning Commission. The Planner reported that they have not. Gary McDaniel asked who put together the amendment. The Planner explained that it is staff's wording. He stated that they have recommended the Special Purpose Airport zoning. Gary McDaniel stated that his concern is that when he flies he is not only concerned about his passenger's safety but for the safety of the people on the ground as well. He stated that the current way that the airport is zoned he does not try to fly over the houses, but veers off to the open fields. He stated by reducing the safety zone he will not feel as safe for his passengers or the people on the ground. He asked that the Town Board reconsider and not change the safety zone until there is more studies by the MnDOT Aviation.

Darryl LaMire, 4779 Otter Lake Road, stated that his is representing Benson Airport. He stated that they prefer not to see any change to the current safety zone. He stated that he is not sure that this zoning amendment is the same as the zoning amendments that he has been involved with. He stated that during the time that he was a Council member for the City of White Bear Lake they had an issue with a zoning change with the Home Depot Corporation at Highway 96 and Centerville Road. The City Council chose not to change the zoning and the City was sued by Home Depot. The matter went to District Court, which the City won; the Appellate Court, which the City won; and the State Supreme Court, which the City won. He stated that the attorneys informed them that the courts generally side with the local communities on local zoning issues, and rarely, if ever, overturn them. Darryl LaMire stated that he does not blame people who try to maximize the value of their property and the money they can make from it. He stated that the Town is dealing with a family who did anything but try to maximize

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what they did with their property, they minimized it. That is the Benson family. The Benson family did not donate, but sold at a reasonable cost, all the land across the street from the airport, which is now the Ramsey County Open Space. If they had intended to maximize they could have made a lot of money but they did not because they cared about the people of White Bear Township and the people of the White Bear area. He reported that when John Benson was approaching the end of his life he knew that the airport was put there in memory of his brother, Roger, who was lost in World War II flying C47's in the Pacific. He died on November 8, 1944 and was well known. The EAA Chapter at Benson Airport is named after Roger. He reported that John donated the airport and both the Township and those who use the airport benefit from that gift. He stated that there are not many families who did what John Benson did for the Township. The 66 acres is very high and very good ground and could have been developed and would have made a whole lot more money than the proposed development of 19 homes. He stated that the airport is about the future and about the people who will come here to enjoy the airport and be part of this community. Darryl LaMire asked the Town Board not to jeopardize the wonderful gift from the Benson family.

Ron Denn, 5655 Portland Avenue, stated that he is a member of the Planning Commission but abstained from the vote. He stated that what the Planning Commission has presented forward is also identical to what the current standard is. The only difference is that it puts the Primary Zone back which does not widen it and create an issue on the existing lots on the north development. That was the purpose behind creating a Special Purpose Airport. What is proposed is consistent with new model standards. He asked feedback from the Town Attorney regarding Mr. Tschida's points on limitations on takings claims which he presented at the last Town Board meeting. He asked if this needs clarification and how it affects the matter. He stated that being a resident along Portland Avenue this is a dramatic change from what they have expected there would be because the safety zone was in place. He stated that he knew there was a space for aircraft to go if necessary. He stated that if a change is made to the safety zone, whether land outside that can be used for the one structure per three acres within Safety Zone B and if this needs clarification as well. He stated that Supervisor Prudhon, when he went up in a plane from Benson Airport, stated that it is daunting as you come across that area. He stated that there is some relevance behind why the Safety Zone is there. He asked for what is in the best interest in the Township as a whole and not just the fear of litigation. Kermes reported that the Town Attorney has been looking at the takings issue and will provide comments.

Al Tschida reported that he spoke with the Town Clerk, the Town Attorney and the League Attorney, who is on vacation this week. He spoke with the second attorney at the League who provided a few helpful cases. He stated that the statute of limitation that he relies on is six years, rather than four years. He stated that the Stoddard's are past the six years since the Ordinance was passed in 1985. The Stoddard's bought in 1990 and have been there 26 years now and it is kind of late. He stated that case law provided by the #2 League Attorney stated that you have to have a final determination

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before you trigger the statute of limitations. He stated that could be an issue. The more fundamental issue was if there was a taking. Even the Stoddard's can't deny and their lawsuit specifically cites that the Town made findings when they were denied. At the October 5, 2015 meeting it states that the property has been knowingly purchased by the applicant, Stoddard's, with the Safety Zones in place. State law allows the government body to adopt airport zoning ordinances that are more restrictive than the minimum standards enforced by the State. MnDOT Aviation testified that no safety zone is required, but at the same time, State law clearly gives the Town the discretion to put in place a more restrictive than necessary ordinance. He reported that MnDOT Aviation did not say that the airport is just as safe without the safety zones. Al Tschida stated that he does not think that there was a taking and the Town has the discretionary call that says that the Town can regulate. If the law in White Bear Township becomes that if we don't like your ruling we'll just sue because that must have been a taking, is not the law in Minnesota or the U.S. and not a good policy. He stated that U.S. Supreme Court, when looking at a takings case, has to determine whether the regulatory action interferes with reasonable investment-backed expectations. If you move in and buy property in a safety zone that is not buildable what is the reasonable investment-backed expectations. To sue and vacate is not reasonable and is not the law. He reported that the #2 League attorney said there has been no scheduling order issued and the case has not been set for trial. Al Tschida urged the Town Board not to be in a hurry to vacate the safety zone, particularly because it is a discretionary call, until the whole thing is settled. He stated that the case is not going away. The Stoddard's need three things: the safety zone vacated because now nothing can go there; a variance. Thirdly, they will need a PUD. The Town has an absolute defense with the safety zone in place. If that defense is thrown away without getting something back from the Stoddard's there is no good reason to proceed with the amendment. The Town is not protecting the airport which he represents. More importantly, the Town is not protecting its citizens.

Tanya Paray, 5675 Portland asked if the zone is planned to be changed if it will allow more houses closer to the safety zone. She stated that there are lots on Portland that are larger and if a pilot had to land a plane that would seem the likely place to do that. She asked that the safety of the houses be a consideration.

Scott Stoddard stated that he is the owner of the property in question. He stated that it has been years and years that people are saying that they knew about the safety zone when they bought the property. He stated that they had no idea how they would have known about it at the time. He stated that is one thing that has been said about them and he has never been in a position to answer.

Al Tschida stated that ignorance of the law is no defense. We are all charged with notice of each and every ordinance that the Town has. To say that no one specifically told the Stoddard's just simply does not work. He stated that everyone is subject to zoning ordinances whether or not the Stoddard's want to admit that, unfortunately for

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them that is the law. It is a matter of the law and public record and they can't ignore it and say that they did not know about it.

There was no further public testimony. Prudhon moved to close the public testimony portion of the Public Hearing. Ruzek seconded. Ayes all.

Kermes asked the Planner if the safety zone is not modified does it preclude any construction in Safety Zone B. The Planner stated Safety Zone B allows up to one unit per three acres. It is still a developable property just not at the density that maximizes the property. Prudhon asked how many units could be placed on the property abiding by the Safety Zone. The Planner reported that they could get 10 units (twinhomes). Kermes asked the Town Attorney regarding issues relating to the matter.

The Town Attorney stated that there are no trial schedules ordered or issued as yet. He stated that it should be issued within the next 30-60 days. He explained the schedule would schedule when discovery occurs, when pre-trial would occur; when motions have to be heard by; and when the potential trial would occur. He estimates that that the trial would be early next year, if it goes that far. He explained that because there is on-going litigation he is constrained in what he can comment on. In terms of the issue of statute of limitations, it is six years. The six year period would commence when the Town Board denied the PUD in October. It is not based on when the ordinance was passed but based on when denial occurred.

Al Tschida asked to speak. The Chair allowed his comments although the public testimony portion of the Public Hearing was closed. Al Tschida asked, regardless of which statute of limitations applies, the threshold question is if there is a taking. Just because there is an ordinance does not necessarily mean that there is a taking. He stated that what triggers a taking, the burning of the fuse, (the statute of limitations is a fuse), and once the fuse burns, it is too late to sue. In the case law he received from the attorney representing the Town, it says that there is two ways to light the fuse. One way is to have a file of determination, which the Town had in October of last year. There is 5 ½ years left before the fuse burns out. The other way for the fuse to go out is if the applicant is told "no". From the conversation he had with the Clerk today there is a ten year period of minutes going back when the Stoddard's plans have been turned down. There was a plan that was offered in 2006 that was turned down by the Stoddard's. There is no final determination until October 5, 2015 determination. He suggested that: 1) there is no taking, regardless of whether or not it is 6 years, 4 years, or if it happened in 1985. A taking is a threshold matter given the Town's inherent right to regulate; 2) The Town has more than adequate documentation to show that the Stoddard's were denied what they requested more than six years ago; 3) the Stoddard's must pursue all administrative amenities. He asked if there is an appeal from the October decision which they should have filed with the Town. The Minnesota Supreme Court states that a matter is not ripe until all administrative reviews have been exhausted. He asked the Town Attorney to clarify the statute of limitations and if there was a taking. Al Tschida

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stated that the Stoddard's were turned down multiple times, more than 6 years ago and in 2006 which is more than 10 years ago which is more than six years ago.

The Town Attorney stated again, that with the on-going litigation, he is under constraint with what he can say. He explained that the statute of limitations could be a question. He stated that he believes that it commenced last October, but could possibly have commenced earlier than that. He reported that there is Special Counsel which has been retained to represent the Town in this matter. While the Town Attorney does assist the Special Counsel in this matter, they are not the main attorneys. He stated that he does not want to undercut what their position is so he is somewhat limited on that basis. He reported that the Town does have the right to adopt regulations for zoning and land use. However, there are occasions when regulations can spill over into a taking. That is what the Town Board has to be concerned with. If a taking is found to exist it can be quite expensive for the Town and that is something that the Town Board is concerned about. He reported that there was an offer to the Stoddard's to appeal the zoning decision last October. They elected not to appeal. At this point that was all he could say on the matter.

The Town Clerk clarified the statement made by Al Tschida that the Town Board turned the Stoddard's down multiple times. He reported that the Town has had a lot of contact with the Stoddard's regarding the development of their property over many years. In 2005 the Town Board approved a plan submitted by Classic Custom Homes. The Town Board has never denied a formal application for the property. Since then, while there has been on-going complaints and criticism by the property owner, the Town Board simply listened and was not in a position to deny as no complete application has been submitted. There were several developers who contacted the Town but there were never any denials. It has been the course of the relationship between the Town and the property owner that might lead people to believe that they keep submitting plans to the Town and are turned down. The Town has been waiting for a complete application for ten years and finally got one in 2015. He stated that the Town Board has not been turning down plans for ten years. That has not happened because no plans were submitted to be turned down. The Town Attorney stated that it requires a formal rejection, not an informal rejection of plans. The only formal rejection was the one that occurred in October, 2015.

Kermes stated that the Town has been looking at sketches and plans for years for this property and the plan submitted in 2005 was not rejected by the Town. The Stoddard's cancelled the project after the Town Board approved the preliminary plat. Up to October, 2015, the only thing looked at were concepts to develop that property. The first formal application the Board took to respond to a formal request for development was last October, in the form of submitted permit requests. The Town Attorney stated that it is the formal application by the landowner that triggers it, not informal applications or inquiries.

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Kermes reported that tonight the only thing being addressed is to modify the Land Use Safety Zones in the Zoning Ordinance. That is the only action item. He referred to the options or alternatives to the existing Safety Zones. One thing that benefits the Town is that since 1984 the State has modified and updated their guidelines for safety zones

dimensions. What has been identified is a safety zone for a grass strip runway airport based on the State design. One thing that has changed is that it is a recommended design and is not a requirement for this airport. MnDOT Aviation does not regulate the Town in this matter but suggests designs that can be used for whatever appropriate airport it is. For this airport there is a design for a grass strip runway. The Town Board is not refusing to address the issue but the Town Board also recognizes that it is representing at least three parties – the right of the property owner; the rights of the neighbors in that area; and a responsibility to the Township as a whole. One of the issues the Town Board is concerned with is if it is risking major or large legal or financial liabilities to the Township and needs to be careful and responsible in how to deal with it. He stated that ultimate impacts to the Township could amount to tens of thousands of dollars. In a worse-case scenario the liability to the Township could be hundreds of thousands of dollars. He stated that is not what will happen but the Town Board has to consider the risks. Kermes stated that White Bear Township has certainly benefited from the contributions from John Benson and his estate. Benson Airport is a much bigger asset than it is a risk. He stated that the Township wants to continue a rewarding relationship with the Benson Airport.

Kermes reported that the options are to do nothing; pursue an amendment to the existing ordinance to shorten the Safety Zone B; or to use the State guidelines for a safety zone for a grass strip runway airport; or to eliminate the safety zone entirely. Ruzek stated that the aspect of this goes well beyond the neighbors around there. This is a Township issue as a whole. While he understands the concerns he remembers when the matter was brought before the Town Board before, the gentleman from MnDOT Aviation said that all pilots would like to have nothing but huge safety zones and that most pilots existing there may not know what the safety zones are as they exist today. He did say that there is no requirement to have them – you could have them but don't have to have them. Looking at the issue as a whole and looking at the property owner he said he was comfortable making a decision tonight.

Ruzek moved to approve the amendment to Section 7-5.1(b) – Safety Zone B of Ordinance No. 35 to use dimensions for a safety zone for a grass strip runway airport. Kermes seconded. Ayes: Ruzek and Kermes. Nay: Prudhon.

Prudhon thanked the Planner and Staff for working on this matter and providing options, and the Attorney's assistance. He reported that he has struggled with the matter and understands that there could be some financial loss, lawsuit and attorney fees but cannot doubt that a reasonable judge and jury would find on the Township side to help

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preserve the safety zone to protect the neighbors, pilots and passengers. He stated the property has always been platted to be developed. The road was configured that way but the Stoddard's wanted to do more than what is allowed. He stated that he stands behind his findings and facts from the October meeting which are mainly his objections to changing the safety zone.

**2016 I & I PROGRAM- BUFFALO STREET TELEVISIONING: 1) RECEIVE QUOTES; 2)**

**AWARD CONTRACT:** The Town Engineer reported that last year the Township has performed flow monitoring to help determine the areas of high infiltration and inflow. Two construction contract areas for lining the pipes have been awarded. The next step is to televise the pipes on the east side of Bald Eagle Lake north of Buffalo Street. This area includes Ridgeway, Williams, and Buffalo Streets. The Town Board authorized preparation of the bid documents and to go out for televising quotes at the March 7, 2016 Town Board Meeting. The televising will provide information necessary to come back to the Town Board for authorizing a contractor to perform the necessary corrective measures to the pipes and manholes. Two quotes for the televising activity were received from: 1) Visu-Sewer at \$2,425.50; and 2) Hydro Klean at \$3,007.62. He reported that TKDA will coordinate the contractor work for an amount not to exceed \$595.00. Overall project funding will be from the Sanitary Sewer Fund. The work will commence as soon as possible and has a completion deadline of April 28, 2016. Kermes noted that these activities were previously discussed and asked if there are any changes as reviewed in the past. The Town Engineer stated that there is not and that this is year two of a four year plan to address inflow/infiltration. Cost of the project will be subtracted from the \$70,000 obligation to the Metropolitan Council for high inflow and infiltration.

Ruzek moved to receive the quotes from Visu-Sewer in the amount of \$2,425.50 and from Hydro Klean in the amount of \$3,007.62. Prudhon seconded. Ayes all.

Ruzek moved, based on Staff review and recommendation to award the contract for the Buffalo Street televising in the amount of \$2,425.50. Prudhon seconded. Ayes all.

Ruzek moved to authorize TKDA to coordinate the contractor work for an amount not to exceed \$595.00. Prudhon seconded. Ayes all.

**WELL #5 SEEPAGE POND: 1) AUTHORIZE PREPARATION OF PLANS AND SPECIFICATIONS; 2) AUTHORIZE ADVERTISEMENT FOR BIDS:**

The Town Engineer reported that last fall the Minnesota Pollution Agency performed a site inspection on the Well #5 Seepage Pond. The pond constructed in 1989 is not infiltrating properly and the overflow structure is being investigated regarding its use and impact on the surrounding wetland. The overflow pipe also has a leak located in the middle of the pipe. He noted that the Town Board authorized a survey and soil borings of the seepage pond to determine what improvements needed to be made. That activity was completed. The seepage basin has partially filled in with sediment from the backwash process. The basin and berm has over time decreased in its infiltration rate.

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The outlet pipe has deteriorated. Engineering will work with the MPCA and Public Works to prepare plans and specification for these improvements and then go out for quotes. TKDA is requesting authorization to prepare the plans and specifications and perform the bidding process in an amount not to exceed \$2,350.00 with funding provided from the Water Fund. The bid results will be brought back to the Town Board for review and approval.

Prudhon moved to authorize TKDA to prepare plans and specifications and advertise for bids for Seepage Pond improvements at Well #5, in an amount not to exceed \$2,350.00, with funding from the Water Fund. Ruzek seconded. Ayes all.

**LIFT STATION #3 – AUTHORIZE TOWN ATTORNEY TO PREPARE OWNERSHIP DOCUMENTATION:** The Town Engineer reported that he is proceeding with the Lift Station #3 improvement project which the Town Board has already authorized. Engineering has been working with the Town Attorney and Town Staff to search for documentation that the Township owns the property. No documentation has been found. The Town Engineer reported that the request is for authorization to work with the Attorney to obtain legal documentation as to ownership of the property. He noted that not only lift station work to be performed is in question, but also the sanitary lines and gravity lines coming to it and the force main. The Town Attorney stated there is no easement for the lift station which can be identified. The lift station was built in 1971.

Ruzek moved, based on Staff review and recommendation to direct the Town Attorney, Engineering, and Staff to prepare and obtain ownership documentation for Lift Station #3 as well as the connecting sanitary sewer pipes, manholes, and force main. Prudhon seconded. Ayes all.

**2016 SEALCOAT PROJECT – AWARD BID:** The Public Works Director reported that this year's project includes the following areas and street segments: the area from Centerville Road west to the railroad tracks, north of Highway 96; the area south of Fox Meadow Park, east of White Bear Parkway and west of Oakmede Lane, including White Bear Parkway from Bibeau Road to Oakmede Lane; Constellation Drive; Anderson Lane, Provence Lane, Saxony Court, and Bartylla Court. The project was advertised in the White Bear Press on February 10, 2016 and February 17, 2016. Bids were opened on March 10, 2016. Bids were received from Allied Blacktop Company, Astech Corporation, Fahrner Asphalt Sealers, LLC, and Pearson Brothers, Inc. Staff is recommending that the bid from Astech Corporation be rejected. An error was found in their proposal form under unit cost. Astech is requesting to withdraw their bid, due to an error in unit pricing. Staff is recommending that this year's sealcoat project be awarded to low bidder, Allied Blacktop Company, Inc. for \$93,478.28.

Prudhon moved, based on Public Works Director's review and recommendation, to reject Astech Corporation bid based upon their withdrawal request. Ruzek seconded. Ayes all.

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Prudhon moved, based on Public Works Director's review and recommendation, to award 2016 sealcoat contract to the low bidder, Allied Blacktop Company in the amount of \$93,478.28, with fund from Improvement Fund 505. Ruzek seconded. Ayes all.

**STREET SWEEPING SERVICES – APPROVE PROPOSAL:** The Public Works Director reported that historically the Town has used Public Works resources, staff and equipment, for both spring and fall sweeping. The program uses one staff member to operate the sweeper and another to haul sweepings to Public Works. The project takes approximately three weeks to complete. This program uses twenty five percent of the staffing available. The Public Works Director is recommending revising the Town's spring street sweeping program in order to ensure that the streets are cleaned of organic matter in a timely fashion allowing staff to begin hydrant flushing and other Public Works Department activities earlier. Dependent on the number of sweepers contracted and the weather, sweeping is estimated to be completed within 2-3, 10 hour days using the Town's dump trucks and staff to haul sweepings back to the Public Works yard. The sweeping would then be loaded into dumpsters by staff and hauled away by a vendor who specializes in this type of disposal. The Town has received quotes from two street sweeping contractors, Allied Blacktop and Pearson Brothers. The lower cost proposal was provided by Allied Blacktop. Prudhon noted that Pearson Brothers proposal calls for the Town to provide truck and dispose of sweepings and to provide water for truck. The Public Works Director reported that Allied BlackTop's proposal contains the same requirements. The Storm Water Operating budget has \$35,000 in 2016 for contractual street sweeping and street sweeping debris disposal. Estimated cost for the spring sweeping program is \$7,200. Sweeping is proposed to be done mid-April. Ruzek asked if these contractors would be covered by insurance. The Public Works Director stated that he would prepare a contract to be reviewed by the Town Attorney.

Ruzek moved, based on Public Works Director's review and recommendation, to approve the proposal for street sweeping services from Allied Blacktop Company for \$80.00 per hour per sweeper with a minimum of two sweepers, with funding from the Storm Water Operating Fund and that a contract for insurance be prepared and reviewed by the Town Attorney. Prudhon seconded. Ayes all.

**WELL #2A REHABILITATION: 1) APPROVE PLANS AND SPECIFICATIONS; 2) AUTHORIZE ADVERTISEMENT FOR BIDS:**

The Public Works Director reported that the Town has six wells in the system. Two wells, #1 and #2, are on the south system and four wells, #3, #4, #5, and #6 are on the north system. He reported that as part of the Town's infrastructure management program the wells need rehabilitation based on annual pumping records. The pumping records provide hours that the pumps actually worked and/or gallons that the pump produced, which is a major determining factor in the frequency with which the wells are rehabilitated. Rehabilitation includes removal, inspection and replacement of parts, if needed, of the well motor, column piping, pump shaft, well pump, and related items. In 2016 well #2 is recommended for rehabilitation based on pumping records and duration since the last rehabilitation in 2009.

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Rehabilitation is estimated at \$30,000.00. Funding for the rehabilitation would be provided from the Water Operating Fund. This project is consistent with the CIP and is included in the 2016 budget.

Prudhon moved, based on Public Works Director's review and recommendation to approve the plans and specifications for the Well #2A rehabilitation with funding from the Water Operating Fund. Ruzek seconded. Ayes all.

Prudhon moved to authorize advertisement for bids for Well #2A rehabilitation and set the bid opening date for Thursday, April 14, 2016 at 2:00 p.m., at the Public Works Department Office. Ruzek seconded. Ayes all.

**COLUMBIA PARK WATER PROJECT- APPROVAL:** The Planner reported that VLAWMO has put together some grant funding to clean water in Lambert Creek. He reported that VLAWMO is proposing to place a wetland treatment system in Columbia Park at the far south end west of Whitaker Pond on the upland portion of the park where a picnic shelter once stood. He reported that the Park Board received a presentation on the proposal and supported the project and recommended that the Town Board move forward with the proposal.

Brian Corcoran, Water Resource Manager for VLAWMO, reported that they are requesting use of the southern end of Columbia Park for a treatment wetland system. He reported that VLAWMO put together an application for grant funding from the Legislative Citizens Commission on Minnesota Resources for a project to address e-coli contamination at Whitaker Pond, the headwaters of Lambert Creek. VLAWMO has been working with consultants for the past two and one half years to identify where e-coli and other nutrient contaminants are coming from in this creek. This project evolved from that research. The process went through the LCCMR committee and has moved into the funds being recommended to the legislature during this session. When the funds come through they will be able to move forward with the project. The first hurdle is receiving permission from the Township to use the portion of Columbia Park for the treatment system. The second hurdle will be obtaining bids from contractors that would equal the funds received from the \$500,000 grant. The treatment system is both an in-ground system to address water quality and a research project with the University of Minnesota. They will do their own testing research on pathogens and how effective this system will be to remove pathogens. VLAWMO will use the research as well to see how well it removes e-coli and other nutrient contaminants. Brian Corcoran explained how the system will work by using a solar pump, water would be conveyed from Whitaker Pond which frequently exceeds State standards for bacteria to three different experimental wetland cells for treatment. Nutrient and bacterial laden water would enter the lined bottom of the subsurface constructed wetland, filling gravel and sand layers and then entering a layer of sorptive materials that have been shown to reduce bacteria. A top layer of planting medium and deep rooted native plants would help draw the water through the system. The water is designed to move upward in the wetland as it is processed. Different combinations of sorptive materials as well as wetland plant

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species in the three wetland cells will be monitored for effectiveness in removing bacteria and nutrients, both entering and leaving the treatment cells. There will be two monitoring ports, white pipes sticking out of the ground. The wetlands can be walked on and mowed. There will be signage and a walking path. The water that goes through the system and gets to the top drains into an infiltration basin next to the wetland. There are three wetlands, 130' x 30' and at the end of each of the wetlands will be an infiltration basin for the water to infiltrate back into the ground water. Kermes asked if this would be a permanent or temporary facility. Brian Corcoran explained that the grant goes through 2020 so there will be three years of research on the project. Depending on how well this works, VLAWMO would like to continue testing the effectiveness. The absorption media used can last up to 25 years. Kermes asked who is responsible for restoration if the system is shut down. Brian Corcoran reported that VLAWMO would be responsible. There is no responsibility to the Township other than allowing VLAWMO to use the area at Columbia Park and an easement. Prudhon asked if this works if the system would be expanded and if there is room at the Columbia Park site to expand. Brian Corcoran reported that the point of the three treatment wetlands is to figure out what absorption media and combination of plants work best when dealing with e-coli or phosphorus and to use the information to make a small scale treatment system for specific storm ponds. Kermes asked if VLAWMO has estimated any volume that would infiltrate into the aquifer. Brian Corcoran stated that they have not. Once they get the technical data back from the soils they can determine this. He presented an overhead showing what the footprint of the wetland at Columbia Park. The Planner reported that the part of the upland being proposed flows down into a wetland. He reported that there are two places where there used to be older playground equipment but the playground has been shifted. The Town Clerk reported that the Town would normally process through a license agreement with terms established by the Town to include final design approval by the Town before construction proceeds and restoration of the site once the operation ceases. Brian Corcoran reported that before the end of the legislative session they will know if they will receive funding.

Ruzek moved, based on Park Board review and recommendation to give concept approval of the Columbia Park Water Project as reviewed by VLAWMO. Prudhon seconded. Ayes all.

Ruzek moved to authorize the Town Attorney and staff to work with VLAWMO on details of the Columbia Park Water Project. Prudhon seconded. Ayes all.

**POLAR LAKES PARK FLAGPOLE PLANTING – APPROVAL:** The Planner reported that the flagpole area at Polar Lakes Park is in disrepair. A proposal for landscape design has been provided by Loucks, landscape architects. Since that time Loucks and Associates has been asked to prepare a landscape design for the relocated Town Hall as well. The original proposal has been updated to include landscape designs for both the flagpole area and Town Hall area. The total cost for the design development and construction plans and specifications for both is \$6,360.00. The Park Board reviewed the proposal for the design at their February meeting and recommend approval. It was

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noted that the cost for the design plan for the Town Hall area will be funded by the Town Hall account and the cost of the flagpole planting area will be funded by the Polar Lakes Park Fund.

Ruzek moved, based on Park Board review and recommendation to approve the flagpole planting plan from Loucks at an average rate of \$120 per hour not to exceed 8 hours, with funding from the Polar Lakes Park Fund. Prudhon seconded. Ayes all.

**CALL SPECIAL TOWN BOARD MEETING FOR APRIL 12, 2016 FOR JOINT EDAB / PARK BOARD MEETING:** Ruzek moved to call a Special Town Board Meeting for April 12, 2016 at 5:30 p.m., at the Town Administrative Office for purpose of EDAB and Park Board to discuss Township Day Event and Town Hall. Prudhon seconded. Ayes all.

**OPEN TIME:** No one appeared for the open portion of the meeting.

**RECEIPT OF AGENDA MATERIALS AND SUPPLEMENTS:** Prudhon moved to receive all of the agenda materials and supplements for tonight's meeting. Ruzek seconded. Ayes all.

The meeting adjourned at 8:34 p.m.

Respectfully Submitted,

William F. Short  
Clerk-Treasurer

Approved as Official Meeting Minutes

\_\_\_\_\_  
Town Board Supervisor

\_\_\_\_\_  
Date